

Table to § 385.321

## Violations That Will Result in Automatic Failure of the New Entrant Safety Audit

Violation	Guidelines for Determining Automatic Failure of the Safety Audit
1. § 382.115(a)/§ 382.115(b)—Failing to implement an alcohol and/or controlled substances testing program (domestic and foreign motor carriers, respectively).	Single occurrence.
2. § 382.201—Using a driver known to have an alcohol content of 0.04 or greater to perform a safety-sensitive function.	Single occurrence.
3. § 382.211—Using a driver who has refused to submit to an alcohol or controlled substances test required under part 382.	Single occurrence.
4. § 382.215—Using a driver known to have tested positive for a controlled substance.	Single occurrence.
5. § 382.305—Failing to implement a random controlled substances and/or alcohol testing program.	Single occurrence.
6. § 383.3(a)/§ 383.23(a)—Knowingly using a driver who does not possess a valid CDL.	Single occurrence.
7. § 383.37(a)—Knowingly allowing, requiring, permitting, or authorizing an employee with a commercial driver’s license which is suspended, revoked, or canceled by a State or who is disqualified to operate a commercial motor vehicle.	Single occurrence.
8. § 383.51(a)—Knowingly allowing, requiring, permitting, or authorizing a driver to drive who is disqualified to drive a commercial motor vehicle.	Single occurrence. This violation refers to a driver operating a CMV as defined under § 383.5.
9. § 387.7(a)—Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.	Single occurrence.
10. § 387.31(a)—Operating a passenger carrying vehicle without having in effect the required minimum levels of financial responsibility.	Single occurrence.
11. § 391.15(a)—Knowingly using a disqualified driver.	Single occurrence.
12. § 391.11(b)(4)—Knowingly using a physically unqualified driver.	Single occurrence. This violation refers to a driver operating a CMV as defined under § 390.5
13. § 395.8(a)—Failing to require a driver to make a record of duty status.	Requires a violation threshold (51% or more of examined records) to trigger automatic failure.
14. § 396.9(c)(2)—Requiring or permitting the operation of a commercial motor vehicle declared “out-of-service” before repairs are made.	Single occurrence.
15. § 396.11(c)—Failing to correct out-of-service defects listed by driver in a driver vehicle inspection report before the vehicle is operated again.	Single occurrence.
16. § 396.17(a)—Using a commercial motor vehicle not periodically inspected.	Requires a violation threshold (51% or more of examined records) to trigger automatic failure.